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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Wayne F. Foraker,

Plaintiff,

ORDER

vs.

Apollo Group, Inc., dba University of)
Phoenix,

Defendant.

On November 22, 2005, the Court held a discovery conference call with the parties. This Order will set forth the Court's rulings on issues addressed during the call.

1. Plaintiff requested that the discovery deadline in this case be extended to January 3, 2006, to permit the depositions of Plaintiff and several defense witnesses on new issues raised in the Fourth Amended Complaint. The Court's Order permitting Plaintiff to file a Fourth Amended Complaint was entered on November 3, 2005, and stated that additional discovery on the new (and limited) factual allegations could occur until December 2, 2005. The Court further stated that it would not be inclined to grant additional extensions. Because the Court's Order was entered electronically, the parties received notice the same day – November 3, 2005. The Court views the time between November 3 and December 2, 2005, as sufficient for the parties to have completed any necessary discovery required by the relatively minor issues added by the Fourth Amended

Complaint. The Court will not grant additional time to complete discovery.¹

- 2. Defendant noticed Plaintiff's deposition for November 22, 2005. Although the parties disagree on why the deposition was postponed,² it is clear that Plaintiff did not postpone the deposition until defense counsel called the office of Plaintiff's counsel on the morning of November 21, 2005, to confirm the start time. This untimely postponement of the deposition was not appropriate. The Court will award \$250 in sanctions against Plaintiff and his counsel for the untimely postponement of the deposition. These sanctions shall be paid to Defendant on or before December 31, 2005. Defendant shall be permitted to complete the deposition of Plaintiff on a date agreeable to both parties, but in no event later than December 16, 2005.
- 3. Defendant shall produce to Plaintiff the documents initially disclosed in Defendant's Eighth Rule 26 Supplemental Disclosure Statement and withdrawn in Defendant's Amended Eighth Rule 26 Supplemental Disclosure Statement. These documents shall be produced on or before December 2, 2005.
 - 4. The December 22, 2005 dispositive motion deadline shall remain in effect. DATED this 23rd day of November, 2005.

Samol G. Campbell

David G. Campbell United States District Judge

¹ This ruling means that Plaintiff will not have the opportunity to depose the defense witnesses discussed during the conference call.

² Defense counsel contends that Plaintiff's counsel cancelled the deposition because Defendant had declined to produce documents withdrawn from disclosure in Defendant's Amended Eighth Rule 26 Supplemental Disclosure Statement. Plaintiff's counsel denies that this was the basis for the postponement, stating instead that there was a calendar conflict.